

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

**TIMOTHY KING, *et.al.*,**  
Plaintiffs,

**Case No. 20-cv-13134  
Hon. Linda V. Parker**

**v**

**GRETCHEN WHITMER**, in her official capacity as  
Governor State of Michigan, *et.al.*,  
Defendants,

and

**ROBERT DAVIS,  
CITY OF DETROIT,  
DEMOCRATIC NATIONAL COMMITTEE,  
MICHIGAN DEMOCRATIC PARTY,**  
Intervenor-Defendants.

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**INTERVENOR DEFENDANT ROBERT DAVIS'  
EMERGENCY MOTION FOR THE COURT TO TAKE JUDICIAL  
NOTICE OF MICHIGAN SENATE'S JUNE 23, 2021 REPORT ON  
THE NOVEMBER 2020 PRESIDENTIAL ELECTION**

**NOW COMES, INTERVENOR DEFENDANT ROBERT DAVIS**

(hereinafter "Intervenor Defendant Davis"), by and through his

attorney, ANDREW A. PATERSON, and for his Emergency Motion for the Court To Take Judicial Notice of Michigan Senate's June 23, 2021 Report on the November 2020 Presidential Election Pursuant to Fed.R.Evid. 201, states the following:

### **I. Concurrence**

Pursuant to Local Rule 7.1, prior to filing the instant motion, counsel for Intervenor Defendant Davis sought concurrence from Plaintiffs' counsel, but concurrence was denied, necessitating the filing of this motion.

### **II. Necessity for Immediate Consideration**

It is necessary for the Court to expedite consideration of Intervenor-Defendant Davis' instant emergency motion because the Court has scheduled a July 6, 2021 hearing on the pending motions for sanctions filed by Defendants and Intervenor-Defendants against the Plaintiffs and Plaintiffs' counsel. It is necessary for the Court to resolve the merits of Intervenor-Defendant Davis' instant motion prior to the July 6, 2021 hearing considering the information contained in the Michigan Senate's June 23, 2021 report (**Exhibit A**) debunks Plaintiffs'

frivolous claims and further supports the assessment of sanctions against Plaintiffs and Plaintiffs' counsel.

### **III. Law and Legal Analysis**

#### **Court Should Take Judicial Notice of Findings Contained in Michigan Senate Oversight Committee's June 23, 2021 Report On November 2020 Presidential General Election.**

Rule 201 of the Federal Rules of Evidence allows the court to take judicial notice of "adjudicative facts" which are "not subject to reasonable dispute" because they are "either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot be questioned." FED. R. EVID. 201(b). Rule 201(c) of the Federal Rules of Evidence further provides that the Court "must take judicial notice if a party requests it and the court is supplied with the necessary information." FED. R. EVID. 201(c). Moreover, "[t]he court may take judicial notice at any stage of the proceeding." FED. R. EVID. 201(d).

Here, Intervenor-Defendant Davis is respectfully requesting this Honorable Court to take judicial notice of the Michigan Senate Oversight Committee's June 23, 2021 55-page report. (**Exhibit A**)<sup>1</sup>. The

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<sup>1</sup> <https://www.misenategop.com/oversightcommitteereport/>

Michigan Senate's Oversight Committee thoroughly investigated some of the frivolous claims of fraud asserted by the Plaintiffs in this litigation. The Michigan Senate Oversight Committee's June 23, 2021 55-page report, which is a public record, clearly debunks Plaintiffs' frivolous claims that there was wide-spread fraud in the November 2020 presidential general election. (Exhibit A).

Notably, with respect to Plaintiffs' frivolous claims that deceased and non-residents voted in the Michigan 2020 presidential general election, the Michigan Senate Oversight Committee's report explicitly concluded that "[t]he Committee researched these claims and concluded that most were false." (*Id.* at p. 9). The Michigan Senate Oversight Committee's report further concluded: "Our clear finding is that citizens should be confident the results represent the true results of the ballots cast by the people of Michigan." (*Id.* at p.35). The Michigan Senate Oversight Committee's June 23, 2021 report proves and illustrates the fraud the Plaintiffs and Plaintiffs' counsel attempted to commit on the Court, which warrants the assessment of sanctions against Plaintiffs and Plaintiffs' counsel.

The Court taking judicial notice of the June 23, 2021 report of the Michigan Senate Oversight Committee is appropriate because this Court may take judicial notice of public documents and government documents because their sources “cannot reasonably be questioned.” Fed.R.Evid. 201(b); *see also Platt v Bd of Comm’rs on Grievances & Discipline*, 894 F.3d 235, 245 (6<sup>th</sup> Cir. 2018) (“Under Federal Rule of Evidence 201(b), a ‘court may take judicial notice of at least some documents of public record.’”) (citation omitted); *Colvin v. Veterans Admin. Med. Ctr.*, 390 Fed.Appx. 454, 456 (6<sup>th</sup> Cir.2010) (taking judicial notice of “finding by Ohio Department of Job and Family Services that [plaintiff’s] termination was not justified”); *City of Monroe Emps. Ret. Sys. v. Bridgestone Corp.*, 399 F.3d 651, 655 n. 1 (6<sup>th</sup> Cir.2005) (taking judicial notice of information posted on NASD website); *United States v. BioPort Corp.*, 270 F.Supp.2d 968, 972 (W.D.Mich.2003).

Therefore, in the interest of justice, it is appropriate for the Court to take judicial notice of the Michigan Senate Oversight Committee’s June 23, 2021 report, which clearly debunks Plaintiffs’ fraudulent and frivolous claims asserted in this case.

## CONCLUSION

WHEREFORE, for the foregoing reasons, Intervenor Defendant Davis prays that this Honorable Court GRANT his emergency motion for the Court to take judicial notice of the Michigan Senate Oversight Committee's June 23, 2021 report.

Dated: June 23, 2021

Respectfully submitted,

/s/ANDREW A. PATERSON

**ANDREW A. PATERSON (P18690)**

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### **CERTIFICATE OF SERVICE**

I, ANDREW A. PATERSON, certify that the foregoing document(s) was filed and served via the Court's electronic case filing and noticing system (ECF) this 23rd day of June, 2021, which will automatically send notification of such filing to all attorneys and parties of record registered electronically.

Dated: June 23, 2021

Respectfully submitted,

/s/ ANDREW A. PATERSON  
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